

PAIA MANUAL

**IN TERMS OF SECTION 51 OF THE PROMOTION OF ACCESS TO
INFORMATION ACT 2 OF 2000, AS AMENDED (PAIA)**

AND

**THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013
(POPIA)**

CONTENTS

1.	PAIA and POPIA.....	3
2.	COMPANY INFORMATION AND CONTACT DETAILS	3
3.	THE GUIDE.....	4
4.	APPLICABLE LEGISLATION	4
5.	PAIA ACCESS TO RECORDS	5
6.	REFUSAL OF ACCESS TO RECORDS.....	7
7.	REMEDIES.....	7
8.	PRESCRIBED FEES.....	8
9.	PROTECTION OF PERSONAL INFORMATION	9
10.	AVAILABILITY OF THE PAIA MANUAL	10
11.	FORMS.....	10

1. PAIA and POPIA

The Promotion of Access to Information Act, 2 of 2000, (PAIA), as amended by section 110 of the Protection of Personal Information Act, 4 of 2013, (PoPIA), gives effect to section 32 of the Constitution, which provides that everyone has the right to access information held by the State, as well as information held by another person (or private body) when such privately held information is required to exercise a right or to protect a right. PoPIA also gives a person the right to request access to own information held by the company and the right to request the correction, destruction or deletion of own personal information, where necessary.

PAIA and PoPIA, provides that a person requesting information must be given the opportunity to access the required information. However, such request has to comply with the procedural requirements laid down by the two Acts and the respective Regulations.

This PAIA (and PoPIA) Manual (“the Manual”) has been compiled in accordance with section 51 of PAIA. The aim of this Manual is to facilitate the requests for access to information from Phakamani Foundation as contemplated under the two Acts.

2. COMPANY INFORMATION AND CONTACT DETAILS

Phakamani Foundation with registration number: 2007/034748/08 (“**Phakamani**”) empowers poor women to succeed at micro-enterprise. Our integrated programme of micro-enterprise training, group loans, and on-going support lead to income, savings, and hope for the next generation. The Foundation is a registered not-for-profit, Christian, public benefit organisation that serves people in need, irrespective of race, religion, or creed.

Phakamani’s CEO is acting as the Information officer and the IT Manager of Phakamani has been duly appointed as the Deputy Information Officer by the CEO, to act as the person to whom requests for access to information must be made in terms of PAIA.

ATTENTION: Ms Malatji (Deputy Information Officer)
Postal address: Postnet suite 22
Private Bag X9910
White River
1240

Physical address: Macadamia Medical & Health Centre
56 Impala Street
White River
Mpumalanga
1240

Telephone: (013) 750 0415

E-mail address: info@phakamanifoundation.org

Website: <http://phakamanifoundation.org/>

Information Officer: Mr Eric Crawford
Telephone: (013) 750 0415
E-mail address: info@phakamanifoundation.org

Deputy Information Officer: Ms Veronica Malatji
Telephone: (013) 750 0415
E-mail address: info@phakamanifoundation.org

3. THE GUIDE

The PAIA guide is available in all official South African languages at no cost, and any person may request a copy of the guide. A copy of the guide may be obtained by contacting the Information Regulator at:

The Information Regulator

33 Hoofd Street

Forum III, 3rd Floor Braampark

P.O Box 31533

Braamfontein, Johannesburg, 2017

Telephone: +27 10 023 5207

Website: <https://info regulator.org.za/>

Link to Guide: https://info regulator.org.za/wp-content/uploads/2020/07/PAIA-Guide-English_20210905.pdf

4. APPLICABLE LEGISLATION

Where applicable to Phakamani's operations, information is available in accordance with the following legislation, including but not limited to:

- Companies Act 71 of 2008
- Income Tax Act 58 of 1962
- Value-Added Tax Act 89 of 1991
- Skills Development Levies Act 9 of 1999
- Pension Funds Act 24 of 1956
- Medical Schemes Act 131 of 1998
- Insurance Act 18 of 2017
- Financial Advisory and Intermediary Services Act 37 of 2002
- Broad-Based Black Economic Empowerment Act 53 of 2003
- Employment Equity Act 55 of 199
- Unemployment Insurance Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001
- Occupational Health and Safety Act 85 of 1993
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Labour Relations Act 66 of 1995
- Basic Conditions of Employment Act 75 of 1997
- National Minimum Wage Act 9 of 2018
- Maintenance of Surviving Spouses Act 27 of 1990
- Protected Disclosures Act 26 of 2000
- Competition Act 89 of 1998
- National Payment System Act 78 of 1998
- Estate Duty Act 45 of 1955
- Preferential Procurement Policy Framework Act 5 of 2000
- Protection of Personal Information Act 4 of 2013
- Promotion of Access to Information Act 2 of 2000
- Promotion of Administrative Justice Act 3 of 2000
- Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
- National Credit Act 34 of 2005
- Consumer Protection Act 68 of 2008
- Identification Act 68 of 1997
- Corruption Act 94 of 1992
- Financial Intelligence Centre Act 38 of 2001
- Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002
- Disaster Management Act 57 of 2002
- Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004
- Financial Institutions (Protection of Funds) Act 28 of 2001

- Prevention and Combating of Corrupt Activities Act 12 of 2004
- Prevention of Organised Crime Act 121 of 1998

5. PAIA ACCESS TO RECORDS

5.1 Subjects and Categories of Records held

The inclusion of any subject or category of records should not be taken as an indication that records falling within those subjects and/or categories will be made available under PAIA. In particular, certain grounds of refusal as set out in PAIA may be applicable to a request for such records.

- Company Information
- Financial and Tax Records
- Banking Details
- Employment Records
- Intellectual Property
- Insurance Records
- Immovable and Movable Property Records
- Information Technology
- Agreements relating to the Business Activities
- Miscellaneous Agreements
- Correspondence
- Information relating to legal proceedings
- Interests and Investments
- FICA records
- Client correspondence
- Marketing brochures, media releases and publications

5.2 Classification and Descriptions

Class	Access classification	Class Description
A	May be Disclosed	Public Access Document
B	May not be Disclosed	Request after commencement of criminal or civil proceedings [s7]
C	May be Disclosed	Subject to copyright
D	Limited Disclosure	Personal Information that belongs to the requester of that information [s61]
E	May not be Disclosed	Unreasonable disclosure of personal information of Natural person [s63(1)]
F	May not be Disclosed	Likely to harm the commercial or financial interests of third party [s64(a)(b)] Likely to harm the Company or third party in contract or other negotiations [s64 (c)]
G	May not be Disclosed	Would breach a duty of confidence owed to a third party in terms of an Agreement [s65]
H	May not be Disclosed	Likely to compromise the safety of individuals or protection of property [s66]
I	May not be Disclosed	Legally privileged document [s67]
J	May not be Refused	Environmental testing / investigation which reveals public safety / environmental risks [s64(2); s68(2)]
K	May not be Disclosed	Commercial information of Private Body [s68]
L	May not be Disclosed	Likely to prejudice research and development information of the Company or a third party [s69]
M	May not be Refused	Disclosure in public interest [s70]

5.3 Summary of Available Records

Departmental Records	Subject	Class
Business Development, Communications and Corporate Affairs Human Resources	Product catalogues	a,d
	Public records	a
	Media releases	a
	Market information	i
	Operating manuals	d
	Product sales	a
	Marketing and new business development strategies	l
	Customer data base	l
	Employee records	d,e,i
	Employment Contracts	d,e
	Human Resources guidelines, policies and procedures	l
	Employee Medical Records	d,e,h
Strategy and Commercial	General contract documentation	f,l
Finance and Governance	Audited financial statements	a
	Tax records	l
	Management accounts	d
	Asset registers	l
	Statutory records	a
	Company guidelines policies and procedures	d
Technical	Programme management records	l
	Trademarks	l
	Quality records	l
	Engineering records	l
Properties	Asset registers	l
	Title deeds	d
	Leases	d

5.4 The Request Procedure and Fees

- 5.4.1 The requester must use the prescribed Form 2 (Annexure A of the PAIA Regulations) to make the request for access to a record. This must be made to the Deputy Information Officer. This request must be made to the address or electronic mail address of the Deputy Information Officer of Phakamani.
- 5.4.2 The requester must provide sufficient detail on the request form to enable the Deputy Information Officer to identify the record and the requester. The requester should also indicate which form of access is required. The requester should also indicate if he or she wishes to be informed in any other manner and state the necessary particulars to be so informed.
- 5.4.3 The requester must identify the right that he or she is seeking to exercise or protect and provide an explanation as to why the requested record is required for the exercise or protection of that right.
- 5.4.4 If a request is made on behalf of a person, the requester must submit proof of the capacity in which the requester is making the request to the satisfaction of the Deputy Information Officer.
- 5.4.5 The Deputy Information Officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the fee before further processing the request. A personal requester does not pay such fee.
- 5.4.6 The requester may lodge an internal appeal or an application to the court against the tender or payment of the request fee.

- 5.4.7 The Deputy Information Officer will then decide on the request and notify the requester in the required form.
- 5.4.8 If the request is granted then a further access fee must be paid for the search, reproduction, preparation and for any time that had exceeded the prescribed hours to search and prepare the record for disclosure.

6. REFUSAL OF ACCESS TO RECORDS

6.1 Grounds to refuse Access

6.1.1 All requests that meet the requirements detailed above will be processed in line with the time limits as set out in PAIA. Requests may be refused based on the following grounds, as set out in PAIA

- Mandatory protection of privacy of a third party who is a natural person;
- Mandatory protection of commercial information of a third party;
- Mandatory protection of certain confidential information of a third party;
- Mandatory protection of records privileged from production in legal proceedings;
- Commercial information of Phakamani; or
- Mandatory protection of research information of a third party and of Phakamani.

6.1.2 Requestors will be informed within 30 (thirty) days of a decision on whether the request for access has been granted or refused.

6.1.3 This 30 (thirty) day period may be extended for a further 30 (thirty) day period if more time is required to gather the requested information. The requestor will however be notified if the initial 30 (thirty) day notice period will be extended for a further 30 (thirty) days.

6.1.4 Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused;

6.1.5 All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation.

6.2 Additional Grounds

The Promotion of Access to Information Act provides several grounds on which a request for access to information must be refused. These grounds mainly concern instances where the privacy and interests of other individuals are protected, where such records are already otherwise publicly available, where public interests are not served, the mandatory protection of commercial information of a third party, and the mandatory protection of certain confidential information of a third party.

7. REMEDIES

7.1 Internal Remedies

Requesters will have to exercise internal remedies at their disposal. If the request for information is refused and the requestor is not satisfied with the answer supplied by the Deputy Information Officer, the requestor may appeal to the Information Officer or Head of the Organisation. A complaint to the Information Regulator may be submitted within 180 (hundred and eighty) days alleging that the decision by the Head of the Private Body was not in compliance with the Act.

7.2 External Remedies

- 7.2.1 A requestor that is dissatisfied with the reasons for refusal to disclose information, may within 180 (hundred and eighty) days of notification of the decision, may lodge a complaint to the Information Regulator or apply to a Court for relief.
- 7.2.2 A third party dissatisfied with the reasons for refusal to disclose information, may within 180 (hundred and eighty) days of notification of the decision, may lodge a complaint to the Information Regulator or apply to a Court for relief.
- 7.2.3 Complaints to the regulator must be lodged in writing in on a form that corresponds to Form 5, Annexure A of the PAIA Regulations.

For the purposes of PAIA, the relevant Courts that have jurisdiction for such applications are:

- Constitutional Court;
- High Court;
- Another court of similar status; or
- Magistrate's Court designated by Minister of Justice and Constitutional Development.

8. PRESCRIBED FEES

- 8.1 The applicable fees are prescribed in terms of the Regulations promulgated under PAIA. There are two types of fees payable:
- **Request fee:** A non-refundable request fee is payable on submission of any request for access to any record. This does not apply if the request is for personal records of the person requesting – in this instance no fee is payable.
 - **Access fee:** An access fee is payable prior to being granted access to the records in the form required.
 - These fees are prescribed in Annexure B as defined in Government gazette Notice No. 575, Dated 27 August 2021.
- 8.2 When the request is received by the Deputy Information Officer, such officer will by notice require the requester to pay the prescribed fee before further processing of the request.
- 8.3 If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Deputy Information Officer will notify the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.
- 8.4 The Deputy Information Officer will withhold a record until the requester has paid the relevant fee.
- 8.5 A requester whose request for access to a record has been granted, must pay an access fee that is calculated to include, where applicable, the request fee, the process fee for reproduction and for the search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the requested form.
- 8.6 If a deposit has been paid in respect of a request for access, which is refused, the Deputy Information Officer concerned must repay the deposit to the requester.
- 8.7 All fees are subject to change as allowed for in PAIA and as a consequence such escalations may not always be immediately available at the time of the request being made. Requesters will be informed of any changes to the fees prior to making a payment.

9. PROTECTION OF PERSONAL INFORMATION

9.1 Introduction

9.1.1 The purpose of PoPIA is to ensure that personal information of individuals, groups of individuals and businesses is protected and to give effect to their constitutional right of privacy.

9.1.2 Phakamani requires personal information in order to carry out its business purpose, organisational functions, meet legal requirements and communicate to donors or investors. Phakamani is a responsible party in terms of PoPIA and will ensure that the following data protection principles are upheld relating to the personal information:

- Lawfulness, fairness, and transparency or openness
- Purpose Specification
- Secondary Purpose Limitation
- Processing Limitation
- Data Minimisation
- Storage limitation
- Accuracy, Integrity and Information Quality
- Accountability
- Integrity, Confidentiality and Information Security
- Security policies and procedures.

9.2 The purpose of processing of personal information of data subjects by Phakamani includes:

- Provide loan products and services
- Identity verification, fraud crime and money laundering detection
- Credit reference checking, debt tracking and recovery
- Contracting, legal proceedings and compliance with legislation
- Marketing, market research and statistical analysis
- Operations, record keeping and stakeholder communication and feedback
- Recruitment, general employee management and administration.

9.3 Categories of data subjects and their personal information

Categories of Data Subjects	Personal Information that may be processed
Customers / Clients / Client Grouping	Name, identity number or registration number, bank details contact details, credit records, financial details, address and property location
Employees, Shareholders and Directors	Name, identity number, bank details contact details, criminal and credit records, financial details, home address, qualifications, gender, race, religion, children, spouse, family, beneficiaries, medical, employment history, curriculum vitae, biometric, trade union and other memberships
Investors, donors, contractors, service providers and suppliers	Names, registration or identification number, vat or tax numbers, contact details, addresses and bank details

The above list is non-exhaustive

9.4 Recipients or categories of recipients to whom personal information may be supplied

Categories of Recipients	Category of Personal Information
Credit Bureaus, Fraud databases, Banks, South African Police Services, Home Affairs	Names and identity number for ID verifications and criminal checks, bank details for bank verification, contact details, credit and payment history for credit information.
Investors, donors and other partners in the loan groups	Names, loan repayment details and other information as contractually required

The above list is non-exhaustive

9.5 Transborder flow of personal information may happen when Phakamani shares personal information of data subjects with third parties, service providers and investors in other countries, for purposes of client service, administration and processing. Phakamani ensures compliance with PoPIA requirements when sharing personal information across borders.

9.6 Phakamani's Information Security measures include the following:

- Confidentiality of information, by ensuring that information is accessible only to those authorised to have access to the information
- Integrity of information, by safeguarding the accuracy and completeness of information
- Availability of information, by ensuring that authorised users have access to information and information systems required to process information, as and when needed
- Company against cyber security threats, attacks and facilitates a Cyber Security Incident Response Plan for prompt recovery and regulatory reporting.

10. AVAILABILITY OF THE PAIA MANUAL

10.1 The manual is available for inspection at the offices of Phakamani at no cost and on the website <http://phakamanifoundation.org/>.

10.2 This PAIA Manual is made available in terms of the PAIA Regulations (Number R.757 of 27 August 2021). The manual will be updated at such intervals as may be deemed necessary.

11. FORMS

11.1 The PAIA and PoPIA Regulations makes provision for specific forms that must be used for the various requests as noted:

- The PAIA Regulations lists 16 Forms in Annexure A
- The POPIA Regulations lists 19 Forms.